

FINAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are Necessary

NOTE: Only the sections that have been modified are addressed in the Final Statement of Reasons.

Section 84064.2(i)(1)

Specific Purpose:

The specific purpose of this addition is to clarify that failing the exam is not good cause for an extension to the application timeframes.

Factual Basis:

This addition is necessary to clearly advise applicants that failing the administrator exam is not a good cause for an extension of the application timeframes. This will reduce Administrative Certification Section (ACS) workload of reviewing and responding to inappropriate extension requests and help avoid certifying marginally qualified applicants to care for vulnerable populations.

Final Modification:

Pursuant to public comment, the proposed section has been amended for clarity to include examples of what the Department may find constitutes “good cause” rather than just stating what does not constitute “good cause.”

Section 84090(d)(1)

Specific Purpose:

The specific purpose of this addition is to clarify that only vendors with an approved Initial Certification Training Program (ICTP) can renew their ICTP vendorship.

Factual Basis:

This addition is necessary to clarify for Group Homes (GH) vendors that they must have an approved GH ICTP in order to renew their GH ICTP vendorship as is the intent of the ICTP renewal process. Historically, some vendors have not understood this so this amendment should remedy that.

Final Modification:

Per public comment, the word “current” is added to clarify that having an “approved” ICTP does mean having a “current approved” ICTP at the time of the vendorship renewal request.

Section 84090(i)(4) Renumbered from Section 84090(i)(3)

Specific Purpose:

This section is renumbered from Section 84090(i)(3) per the addition of a new section (3) described above, and amended to specify that vendors use a Department form or another form including the same information for submitting the rosters of who completes their ICTPs.

Factual Basis:

This amendment is necessary to ensure vendors’ regulatory compliance by creating a record of ICTP participant information and providing it to the Department upon request. For processing administrator certifications, the Department needs a means to check applicants’ completion of ICTP programs, particularly in cases where the certificate submitted appears fraudulent. The ability to collect consistently-detailed rosters of ICTP participants facilitates that task, and reduces the need for vendors to field requests for individual administrator attendance information from the Department.

Final Modification:

Per public comment, the section is amended to allow a vendor to use and submit another form for its course roster so long as that roster form includes at least the same information as on the form LIC 9142A.

Section 84090(i)(5)(C) Renumbered from Section 84090(i)(4)(C)

Specific Purpose:

This section is renumbered from Section 85090(i)(4)(C) per the addition of a new section described above, and amended for grammatical clarity and to add the number of the form for clarity and consistency.

Factual Basis:

The amendments are necessary to clarify that the vendor must maintain the roster of registered ICTP participants and documentation of who completed the ICTP as not all registrants may complete the program. This allows the Department to confirm administrator completion of the program as required by law. Using a standardized form (as most already do) or another form containing the same information ensures consistency of information collected.

Final Modification:

Per public comment, the section is amended to allow a vendor to use another form for its course roster so long as that roster form includes at least the same information as on the form LIC 9142A.

Section 84090(i)(7)(D) Renumbered from Section 84090(i)(6)(D)

Specific Purpose:

This section is renumbered from Section 84090(i)(6)(D) per the addition of a section as described above, and amended to clarify the instructors' required knowledge and experience under this criteria and to update the cross reference.

Factual Basis:

This amendment is necessary to clarify the existing intent of this criteria that the instructor be a current or very recent administrator and have his or her facility(ies) in substantial compliance with the law and regulations. The amendment changes the timeframe from four years within the last eight years to four years within the last six years to better ensure the person's knowledge of current facility administration requirements and issues and thus the ability to provide correct instruction to other administrators. The amendment also adds that the administrator-instructor have verifiable training in the subject(s) to be taught to help ensure they're not teaching a topic on which, despite their general administrator experience, they have little or no specific knowledge. This all helps ensure the quality of training for administrators. The related cross reference is updated pursuant to other changes in that section.

Final Modification:

Per public comment, the section is amended to remove the unnecessary term "formal."

Section 84090(i)(9)

Specific Purpose:

The specific purpose of this addition is to place in regulations a requirement that vendors encourage and respond to questions during their training programs.

Factual Basis:

This addition is necessary to address a historical problem of some vendors or their instructors not providing time for questions and/or adequately responding to questions by ICTP participants. This amendment should remedy that and help ensure the ICTPs better facilitate learning.

Final Modification:

Per public comment, the section is amended to clarify that it's the course instructor (not necessarily the vendor personally) who is encouraged to elicit and respond to course participant questions.

Section 84090(k)

Specific Purpose:

The specific purpose of this addition is to specify the process for notifying vendors of any deficiencies found per the Department's monitoring of the ICTP.

Factual Basis:

This addition is necessary to place in regulations and make clear to vendors the process for how the Department will officially notify vendors of any significant deficiencies identified during the monitoring [authorized per Health and Safety Code (H&SC) section 1522.41(h)(4)]. The amendment also provides for handling minor deficiencies, such that if they are corrected immediately, they won't be included in the notice. The notice will be provided in person or by registered mail to ensure its receipt by the vendor.

Final Modification:

Per public comment, the section is amended to clarify the intent that the deficiency process applies to program inspections as well as investigations (e.g., of complaints).

Section 84090(l)

Specific Purpose:

This section is added to include limitations on co-located courses, consistent with the Adult Residential Facilities (ARF) and Residential Care Facilities for the Elderly (RCFE) regulations.

Factual Basis:

This addition is necessary to ensure that all vendors, including those for GH courses, are aware that they cannot co-locate ICTPs as this would not meet the unique statutory training requirements of each program area. This is already stated in the ARF and RCFE regulations (Sections 85090(l) and 87785(l)) and so is added here for clarity and consistency.

Final Modification:

Per public comment, the section is amended to correct the typographical error and state "instruct or co-locate" rather than "instructor co-locate."

Section 84091(d)(1)

Specific Purpose:

The specific purpose of this addition is to clarify that only vendors with approved continuing education courses can renew their continuing education vendorship.

Factual Basis:

This addition is necessary to clarify for GH vendors that they must have one or more approved GH continuing education courses in order to renew their GH continuing education vendorship as is the intent of the course renewal process. Historically, some vendors have not understood this so this amendment should remedy that.

Final Modification:

Per public comment, the word “current” is added to clarify that having one or more “approved” courses does mean having one or more “current approved” courses at the time of the vendorship renewal request.

Section 84091(h)(2)(C) Renumbered from Section 84091(h)(1)(C)

Specific Purpose:

This section is renumbered from 84091(h)(1)(C) to per the addition of a new section as described above, and amended to add the term "rosters" and the form number for clarity of the type of information to be maintained.

Factual Basis:

Vendors are required to maintain records of who completed their approved continuing education courses. This amendment is necessary to clarify that this information is to be maintained in a standardized roster format, as it typically is by course. Without this clarification some vendors may believe they must maintain copies of the individual students' certificates of completion which is an option but not required given the volume of courses and students.

Final Modification:

Per public comment, the section is amended to allow a vendor to use another form for its course roster so long as that roster form includes at least the same information as on the form LIC 9142A.

Section 84091(h)(3)(D) Renumbered from Section 84091(h)(2)(D)

Specific Purpose:

This section is renumbered from Section 84091(h)(2)(D) per the addition of a new section as described above, and amended to clarify the instructors' required knowledge and experience under this criteria and to update the cross-referenced section per prior Departmental updates to the definitions.

Factual Basis:

This amendment is necessary to clarify the existing intent of this criteria that the instructor be a current or very recent administrator and have his or her facility(ies) in substantial compliance with the law and regulations. The amendment changes the timeframe from four years within the last eight years to four years within the last six years to better ensure the person's knowledge of current facility administration requirements and issues and thus the ability to provide correct instruction to other administrators. The amendment also adds that the administrator-instructor have verifiable training in the subject(s) to be taught to help ensure they're not teaching a topic on which, despite their general administrator experience, they have little or no specific knowledge. This all helps ensure the quality of training for administrators.

Final Modification:

Per public comment, the section is amended to remove the unnecessary term "formal."

Section 84091(h)(6)

Specific Purpose:

The specific purpose of this addition is to place in regulations a requirement that vendors encourage and respond to questions during their training programs.

Factual Basis:

This addition is necessary to address a historical problem of some vendors or their instructors not providing time for questions and/or adequately responding to questions by continuing education course participants. This amendment should remedy that and help ensure the courses better facilitate learning.

Final Modification:

Per public comment, the section is amended to clarify that it's the course instructor (not necessarily the vendor personally) who is encouraged to elicit and respond to course participant questions.

Section 84091(i)(1)(A)

Specific Purpose:

The specific purpose of this addition is to specify how a webinar or similar type of live online course may be approved pursuant to statute.

Factual Basis:

This addition is required to provide clarity to vendors on how the Department may approve webinars and similar types of live online courses. Historically there has been no specific process for reviewing and approving such courses.

Final Modification:

Based on public comment, this section is amended to clarify that “present” means “logged on and interacting throughout” a webinar.

Section 84091(l)

Specific Purpose:

The specific purpose of this addition is to specify the process for notifying vendors of any deficiencies found per the Department’s monitoring of the vendor’s continuing education program.

Factual Basis:

This addition is necessary to place in regulations and make clear for vendors the process for how the Department will officially notify vendors of any significant deficiencies identified during the monitoring (authorized per H&SC section 1522.41(h)(4)). The amendment also provides for handling minor deficiencies, such that if they are corrected immediately, they won’t be included in the notice. The notice will be provided in person or by registered mail to ensure its receipt by the vendor.

Final Modification:

Per public comment, the section is amended to clarify the intent that the deficiency process applies to program inspections as well as investigations (e.g., of complaints).

Section 84091.1(c)(2)

Specific Purpose:

The specific purpose of this addition is to clarify the consequences of late course renewals.

Factual Basis:

This addition is necessary to include in regulations the process for handling late course renewal requests. Specifically, the amendment provides that course renewal requests received by the Department after the course expiration date will be denied and the vendor required to submit the courses for new approvals. Historically, many renewals have been received too late to process before the expiration, leading to a lapse in course approvals and difficulties for vendors and administrators due to cancelled courses. Placing the process in regulations will clarify for vendors the consequences of late renewals and provide an incentive (less paperwork) for timely submittals.

Final Modification:

Per public comment, the typographical error “data” is corrected to “date.”

Section 84092(b)

Specific Purpose:

The specific purpose of this addition is to specify when the penalties will be due and how they are to be paid.

Factual Basis:

This addition is necessary to clearly advise all vendors of the penalty payment process. Payment by money order only is provided to avoid added costs to the State of trying to process invalid checks. Historically, the Department has received numerous bad checks and had no viable avenue to collect such payments as going to court is usually too costly relative to the payment due.

Final Modification:

Per public comment, the section is amended to allow penalty payment by cashier’s check as well as money order as this also is fiscally safe for the State.

Section 85002(a)

Specific Purpose:

The specific purpose of this amendment is to delete a form which is being incorporated elsewhere for clarity, and to add an ARF-specific form into this ARF section of regulations.

Factual Basis:

The deletion is necessary for clarity and to avoid redundancy as the several Administrator Certification Program forms applicable to all three program areas (GH, ARF, RCFE), including LIC 9139, are being incorporated by reference in Section 87102. The addition is

necessary to incorporate into the ARF regulations the current version of the ARF Core of Knowledge Guideline so the information is clearly available to ARF administrators and vendors. The Core of Knowledge Guidelines for GH and Core of Knowledge Standards for RCFE are similarly incorporated into those respective sections of the regulations (85002(c) and 87102(k)).

Final Modification:

The incorporated form was changed as follows: In the column for the topic “Community & Support services, the Department added the terms “Role of” and “Roles of” to clarify what is meant by “Ombudsman” and “Adult Protective Services,” respectively, and added the commonly used acronym “APS” for Adult Protective Services. Column spacing was also adjusted to avoid splitting words.

Section 85064.2(i)(1)

Specific Purpose:

The specific purpose of this addition is to clarify that failing the exam is not good cause for an extension to the application timeframes.

Factual Basis:

This addition is necessary to clearly advise applicants that failing the administrator exam is not a good cause for an extension of the application timeframes. This will reduce ACS workload of reviewing and responding to inappropriate extension requests and help avoid certifying marginally qualified applicants to care for vulnerable populations.

Final Modification:

Pursuant to public comment, the proposed section has been amended for clarity to include examples of what the Department may find constitutes “good cause” rather than just stating what does not constitute “good cause.”

Section 85090(d)(1)

Specific Purpose:

The specific purpose of this addition is to clarify that only vendors with an approved ICTP can renew their ICTP vendorship.

Factual Basis:

This addition is necessary to clarify for ARF vendors that they must have an approved ARF ICTP in order to renew their ARF ICTP vendorship as is the intent of the ICTP renewal process. Historically, some vendors have not understood this so this amendment should remedy that.

Final Modification:

Per public comment, the word “current” is added to clarify that having an “approved” ICTP does mean having a “current approved” ICTP at the time of the vendorship renewal request.

Section 85090(i)(4) Renumbered from Section 85090(i)(3)

Specific Purpose:

This section is renumbered from Section 85090(i)(3) per the addition of a new section (3) described above, and amended to specify that vendors use a Department form or another form including the same information for submitting the rosters of who completes their ICTPs.

Factual Basis:

This amendment is necessary to ensure vendors’ regulatory compliance by creating a record of ICTP participant information and providing it to the Department upon request. For processing administrator certifications, the Department needs a means to check applicants’ completion of ICTP programs, particularly in cases where the certificate submitted appears fraudulent. The ability to collect consistently-detailed rosters of ICTP participants facilitates that task, and reduces the need for vendors to field requests for individual administrator attendance information from the Department.

Final Modification:

Per public comment, the section is amended to allow a vendor to use and submit another form for its course roster so long as that roster form includes at least the same information as on the form LIC 9142A.

Section 85090(i)(5)(C) Renumbered from Section 85090(i)(4)(C)

Specific Purpose:

This section is renumbered from Section 85090(i)(4)(C) per the addition of a new section described above, and amended for grammatical clarity and to add the number of the form for clarity and consistency.

Factual Basis:

The amendments are necessary to clarify that the vendor must maintain the roster of registered ICTP participants and documentation of who completed the ICTP as not all registrants may complete the program. This allows the Department to confirm administrator completion of the program as required by law. Using a standardized form (as most already do) or another form containing the same information ensures consistency of information collected.

Final Modification:

Per public comment, the section is amended to allow a vendor to use another form for its course roster so long as that roster form includes at least the same information as on the form LIC 9142A.

Section 85090(i)(7)(D) Renumbered from Section 85090(i)(6)(D)

Specific Purpose:

This section is renumbered from Section 85090(i)(6)(D) per the addition of a section as described above, and amended to clarify the instructors' required knowledge and experience under this criteria, and to update a cross reference.

Factual Basis:

This amendment is necessary to clarify the existing intent of this criteria that the instructor be a current or very recent administrator and have his or her facility(ies) in substantial compliance with the law and regulations. The amendment changes the timeframe from four years within the last eight years to four years within the last six years to better ensure the person's knowledge of current facility administration requirements and issues and thus the ability to provide correct instruction to other administrators. The amendment also adds that the administrator-instructor have verifiable training in the subject(s) to be taught to help ensure they're not teaching a topic on which, despite their general administrator experience, they have little or no specific knowledge. This all helps ensure the quality of training for administrators. The related cross reference is updated pursuant to other changes in that section.

Final Modification:

Per public comment, the section is amended to remove the unnecessary term "formal."

Section 85090(i)(9)

Specific Purpose:

The specific purpose of this addition is to place in regulations a requirement that vendors encourage and respond to questions during their training programs.

Factual Basis:

This addition is necessary to address a historical problem of some vendors or their instructors not providing time for questions and/or adequately responding to questions by ICTP participants. This amendment should remedy that and help ensure the ICTPs better facilitate learning.

Final Modification:

Per public comment, the section is amended to clarify that it's the course instructor (not necessarily the vendor personally) who is encouraged to elicit and respond to course participant questions.

Section 85090(k)

Specific Purpose:

The specific purpose of this addition is to specify the process for notifying vendors of any deficiencies found per the Department's monitoring of the ICTP.

Factual Basis:

This addition is necessary to place in regulations and make clear for vendors the process for how the Department will officially notify vendors of any significant deficiencies identified during the monitoring (authorized by H&SC section 1562.3(h)(4)). The amendment also provides for handling minor deficiencies, such that if they are corrected immediately, they won't be included in the notice. The notice will be provided in person or by registered mail to ensure its receipt by the vendor.

Final Modification:

Per public comment, the section is amended to clarify the intent that the deficiency process applies to program inspections as well as investigations (e.g., of complaints).

Section 85091(d)(1)

Specific Purpose:

The specific purpose of this addition is to clarify that only vendors with approved continuing education courses can renew their continuing education vendorship.

Factual Basis:

This addition is necessary to clarify for ARF vendors that they must have one or more approved ARF continuing education courses in order to renew their ARF continuing education vendorship as is the intent of the course renewal process. Historically, some vendors have not understood this so this amendment should remedy that.

Final Modification:

Per public comment, the word “current” is added to clarify that having one or more “approved” courses does mean having one or more “current approved” courses at the time of the vendorship renewal request.

Section 85091(h)(2)(C) Renumbered from Section 85091(h)(1)(C)

Specific Purpose:

This section is renumbered from Section 85091(h)(1)(C) per the addition of a new section as described above and amended to add the term "rosters" and the form number for clarity of the type of information to be maintained.

Factual Basis:

Vendors are required to maintain records of who completed their approved continuing education courses. This amendment is necessary to clarify that this information is to be maintained in a standardized roster format, as it typically is by course. Without this clarification some vendors may believe they must maintain copies of the individual students' certificates of completion which is an option but not required given the volume of courses and students.

Final Modification:

Per public comment, the section is amended to allow a vendor to use another form for its course roster so long as that roster form includes at least the same information as on the form LIC 9142A.

Section 85091(h)(3)(D) Renumbered from Section 85091(h)(2)(D)

Specific Purpose:

This section is renumbered from Section 85091(h)(2)(D) per the addition of a section as described above, and amended to clarify the instructors' required knowledge and experience under this criteria and to correct the cross-referenced section per prior Departmental updates to the definitions.

Factual Basis:

This amendment is necessary to clarify the existing intent of this criteria that the instructor be a current or very recent administrator and have his or her facility(ies) in substantial compliance with the law and regulations. The amendment changes the timeframe from four years within the last eight years to four years within the last six years to better ensure the person's knowledge of current facility administration requirements and issues and thus the ability to provide correct instruction to other administrators. The amendment also adds that the administrator-instructor have verifiable training in the subject(s) to be taught to help ensure they're not teaching a topic on which, despite their general administrator experience, they have little or no specific knowledge. This all helps ensure the quality of training for administrators.

Final Modification:

Per public comment, the section is amended to remove the unnecessary term "formal."

Section 85091(h)(6)

Specific Purpose:

The specific purpose of this addition is to place in regulations a requirement that vendors encourage and respond to questions during their training programs.

Factual Basis:

This addition is necessary to address a historical problem of some vendors or their instructors not providing time for questions and/or adequately responding to questions by continuing education course participants. This amendment should remedy that and help ensure the courses better facilitate learning.

Final Modification:

Per public comment, the section is amended to clarify that it's the course instructor (not necessarily the vendor personally) who is encouraged to elicit and respond to course participant questions.

Section 85091(i)(1)(A)

Specific Purpose:

The specific purpose of this addition is to specify in regulations how a webinar or similar type of live online course may be approved pursuant to statute.

Factual Basis:

This addition is necessary to provide clarity to vendors on how the Department may approve webinars and similar type of live online courses. Historically, there has been no specific process for reviewing and approving such courses.

Final Modification:

Based on public comment, this section is amended to clarify that “present” means “logged on and interacting throughout” a webinar.

Section 85091(l)

Specific Purpose:

The specific purpose of this addition is to specify the process for notifying vendors of any deficiencies found per the Department’s monitoring of the vendor’s continuing education program.

Factual Basis:

This addition is necessary to place in regulations and make clear for vendors the process for how the Department will officially notify vendors of any significant deficiencies identified during the monitoring (authorized per H&SC section 1562.3(h)(4)). The amendment also provides for handling minor deficiencies, such that if they are corrected immediately, they will not be included in the notice. The notice will be provided in person or by registered mail to ensure its receipt by the vendor.

Final Modification:

Per public comment, the section is amended to clarify the intent that the deficiency process applies to program inspections as well as investigations (e.g., of complaints).

Section 85091.1(c)(2)

Specific Purpose:

The specific purpose of this addition is to clarify the consequences of late course renewals.

Factual Basis:

This addition is necessary to include in regulations the process for handling late course renewal requests. Specifically, the amendment provides that course renewal requests received by the Department after the course expiration date will be denied and the vendor required to submit the courses for new approvals. Historically, many renewals have been received too late to process before the expiration, leading to a lapse in course approvals and difficulties for vendors and administrators due to cancelled courses. Placing the process in regulations will clarify for vendors the consequences of late renewals and provide an incentive (less paperwork) for timely submittals.

Final Modification:

Per public comment, the typographical error “data” is corrected to “date.”

Section 85092(b)

Specific Purpose:

The specific purpose of this addition is to specify when the penalties will be due and how they are to be paid.

Factual Basis:

This addition is necessary to clearly advise all vendors of the penalty payment process. Payment by money order only is provided to avoid added costs to the State of trying to process invalid checks. Historically, the Department has received numerous bad checks and has no viable avenue to collect such payments as going to court is usually too costly relative to the payment due.

Final Modification:

Per public comment, the section is amended to allow penalty payment by cashier’s check as well as money order as this also is fiscally safe for the State.

Section 87102(a)

Specific Purpose/Factual Basis:

This section is amended to add form LIC 9139’s new version date for clarity and consistency.

Final Modification:

The incorporated form was changed as follows: For accuracy and clarity, the form is amended to remove the boxes for ICTPs inadvertently included in section 1. The form only applies to Continuing Education Units (CEU) course renewals.

Sections 87102(b)

Specific Purpose/Factual Basis:

This section is amended to add form LIC 9140's new version date for clarity and consistency.

Final Modifications:

The incorporated form was changed as follows: Per public comment and for clarity the form is amended to: 1) change the phrase "Core of Knowledge category" in section 3 to "Core of Knowledge category(ies)" as the course may cover one or more categories; 2) reword the fourth box under "Instructor Qualifications" in section 4 to match the updated wording in regulations; and 3) update the wording of boxes 6 – 9 and the "Name" box on page 2 of the form to match those of section 3 of form LIC 9140A and thus correctly address the "individual" and name the "Proposed Instructor" as the vendor may be completing and signing these sections on behalf of its instructor(s).

Section 87102(c)

Specific Purpose:

The specific purpose of this addition is to incorporate all applicable forms into these regulations.

Factual Basis:

This addition is necessary to incorporate the new version of form LIC 9140A, required of vendors to consistently seek and obtain approval of a change in previously approved course instructors. Such approval is necessary as instructors are approved based on their qualifications and specific to each course or course component, to help ensure administrators receive accurate and adequate training. The form has been in use but not previously included in the regulations.

Final Modification:

The incorporated form was changed as follows: For clarity, the parenthetical instruction in section 3 is amended to remove the phrase "of work experience" as the resume is expected to include both work experience and education in order to document the instructor's qualifications.

Section 87102(e)

Specific Purpose:

The specific purpose of this addition is to incorporate all applicable forms into these regulations.

Factual Basis:

This addition is necessary to incorporate in this central location for ACS forms the current version of form LIC 9142A, previously incorporated in Section 85002(d). This form is required of vendors to consistently document participants in their courses so the Department can confirm administrator certificate applicants' completion of initial and continuing education requirements.

Final Modification:

The incorporated form was changed as follows: The form is amended to remove the obsolete instruction to submit rosters "within seven days" of course completion as the rosters are now to be submitted upon request.

Section 87102(f)

Specific Purpose:

The specific purpose of this addition is to incorporate all applicable forms into these regulations.

Factual Basis:

This addition is necessary to incorporate the current version of form LIC 9142B, which the Department uses to document participants in the required administrator certification exam but has not previously included in the regulations.

Final Modification:

The incorporated form was changed as follows: Per ACS staff review, the field for "email address" is removed as it's already collected during the exam registration process.

Section 87102(h)

Specific Purpose:

The specific purpose of this addition is to incorporate all applicable forms into these regulations.

Factual Basis:

This addition is necessary to incorporate the current version of form LIC 508, which the Department uses for facility administrators, among others, to ensure they have the appropriate background clearance before being certified.

Final Modification:

The regulation text and incorporated form was changed as follows: The date of the form is updated to “7/15” to reflect the current version in use.

Section 87102(i)

Specific Purpose:

The specific purpose of this addition is to incorporate all applicable forms into these regulations.

Factual Basis:

This addition is necessary to incorporate the new version of form LIC 9214, which the Department uses to collect the basic data required of initial and renewal applicants for administrator certification but was not previously included in these regulations.

Final Modification:

The date of the LIC 508 form referenced in the instructions for initial applicants on page 2 of LIC 9214 is updated to “7/15” to reflect the current version in use.

Section 87406(i)(1)

Specific Purpose:

The specific purpose of this addition is to clarify that failing the exam is not good cause for an extension to the application timeframes.

Factual Basis:

This addition is necessary to clearly advise applicants that failing the administrator exam is not good cause for an extension of the application timeframes. This will reduce ACS workload of reviewing and responding to inappropriate extension requests.

Final Modification:

Pursuant to public comment, the proposed section has been amended for clarity to include examples of what the Department may find constitutes “good cause” rather than just stating what does not constitute “good cause.”

Section 87407(d)(2)

Specific Purpose:

The specific purpose of this amendment is to clarify the required continuing education hours for RCFE administrators with Nursing Home Administrator (NHA) licenses.

Factual Basis:

Per H&SC section 1569.616(f)(1), Section 87407(g) provides a reduced CEU requirement for RCFE administrators who are also NHAs. Including those hours in this section clarifies the requirement for administrators using this section as a checklist for renewing their certificate, and should reduce the number of applications submitted with deficient CEU hours for RCFE/NHA administrators.

Final Modification:

Pursuant to public comment, the typographical error is corrected so that the number in parentheses after the word “twenty” is “20” rather than “2.”

Section 87407(e)(2)

Specific Purpose:

The specific purpose of this amendment is to clarify how the required number of CEUs is determined for a very late applicant.

Factual Basis:

An applicant for recertification must have completed 40 hours of continuing education (or 20 hours for NHAs) during their two-year certification period. This amendment clarifies the total hours required by adding the reference to the section on NHAs. It also clarifies that for applicants seeking recertification up to four years after the expiration of their prior certificate, the additional number of continuing education hours required will be based on how much time has elapsed from the certificate expiration to Department ACS receipt of the renewal application. Not knowing this, late applicants have often not submitted adequate units to bring their certificate current, resulting in further delays in their certificate renewal.

Final Modification:

Pursuant to public comment, the typographical error is corrected so that the cross reference correctly reads “87407(g)” rather than “87406(g).”

Section 87785(d)(1)

Specific Purpose:

The specific purpose of this addition is to clarify that only vendors with an approved ICTP can renew their ICTP vendorship.

Factual Basis:

This addition is necessary to clarify for RCFE vendors that they must have an approved RCFE ICTP in order to renew their RCFE ICTP vendorship as is the intent of the ICTP renewal process. Historically, some vendors have not understood this so this amendment should remedy that.

Final Modification:

Per public comment, the word “current” is added to clarify that having an “approved” ICTP does mean having a “current approved” ICTP at the time of the vendorship renewal request.

Section 87785(i)(4) Renumbered from Section 87785(i)(3)

Specific Purpose:

This section is renumbered from Section 87785(i)(3) per the addition of a new section described above, and amended to specify that vendors use a Department form or another form including the same information for submitting the rosters of who completes their ICTPs.

Factual Basis:

This amendment is necessary to ensure vendors’ regulatory compliance by creating a record of ICTP participant information and providing it to the Department upon request. For processing administrator certifications, the Department needs a means to check applicants’ completion of ICTP programs, particularly in cases where the certificate submitted appears fraudulent. The ability to collect consistently-detailed rosters of ICTP participants facilitates that task, and reduces the need for vendors to field requests for individual administrator attendance information from the Department.

Final Modification:

Per public comment, the section is amended to allow a vendor to use and submit another form for its course roster so long as that roster form includes at least the same information as on the form LIC 9142A.

Section 87785(i)(5)(C) Renumbered from Section 87785(i)(4)(C)

Specific Purpose:

This section is renumbered from Section 87785(i)(4)(C) per the addition of a new section described above, and amended for grammatical clarity and to add the number of the form for clarity and consistency.

Factual Basis:

The amendments are necessary to clarify that the vendor must maintain the roster of registered ICTP participants and documentation of who completed the ICTP as not all registrants may complete the program. This allows the Department to confirm administrator completion of the program as required by law. Using a standardized form (as most already do) or another form containing the same information ensures consistency of information collected.

Final Modification:

Per public comment, the section is amended to allow a vendor to use another form for its course roster so long as that roster form includes at least the same information as on the form LIC 9142A.

Section 87785(i)(7)(D) Renumbered from Section 87785(i)(6)(D)

Specific Purpose:

This section is renumbered from Section 87785(i)(6)(D) per the addition of a new section as described above, and amended to clarify the instructors' required knowledge and experience under this criteria, and to update a cross reference.

Factual Basis:

This amendment is necessary to clarify the existing intent of this criteria that the instructor be a current or very recent administrator and have his or her facility(ies) in substantial compliance with the law and regulations. The amendment changes the timeframe from four years within the last eight years to four years within the last six years to better ensure the person's knowledge of current facility administration requirements and issues and thus the ability to provide correct instruction to other administrators. The amendment also adds that the administrator-instructor have verifiable training in the subject(s) to be taught to help ensure they're not teaching a topic on which, despite their general administrator experience, they have little or no specific knowledge. This all helps ensure the quality of training for administrators. The related cross reference is updated pursuant to other changes in that section.

Final Modification:

Per public comment, the section is amended to remove the unnecessary term "formal."

Section 87785(i)(10)

Specific Purpose:

The specific purpose of this addition is to place in regulations a requirement that vendors encourage and respond to questions during their training programs.

Factual Basis:

This addition is necessary to address a historical problem of some vendors or their instructors not providing time for questions and/or adequately responding to questions by ICTP participants. This amendment should remedy that and help ensure the ICTPs better facilitate learning.

Final Modification:

Per public comment, the section is amended to clarify that it's the course instructor (not necessarily the vendor personally) who is encouraged to elicit and respond to course participant questions.

Section 87785(k)

Specific Purpose:

The specific purpose of this addition is to specify the process for notifying vendors of any deficiencies found per the Department's monitoring of the ICTP.

Factual Basis:

This addition is necessary to place in regulations and make clear for vendors the process for how the Department will officially notify vendors of any significant deficiencies identified during the monitoring (authorized by H&SC section 1569.616(i)(5)). The amendment also provides for handling minor deficiencies, such that if they are corrected immediately, they won't be included in the notice. The notice will be provided in person or by registered mail to ensure its receipt by the vendor.

Final Modification:

Per public comment, the section is amended to clarify the intent that the deficiency process applies to program inspections as well as investigations (e.g., of complaints).

Section 87785(l) Renumbered from Section 87785(k)

Specific Purpose/Factual Basis:

This section is renumbered from Section 87785(k) per the addition of a new section (k) as described above, and the facility type acronyms spelled out for clarity as they're not otherwise used in this section.

Final Modification:

Per public comment, the section is amended to correct the typographical error and state "instruct or co-locate" rather than "instructor co-locate."

Section 87788(d)(1)

Specific Purpose:

The specific purpose of this addition is to clarify that only vendors with approved continuing education courses can renew their continuing education vendorship.

Factual Basis:

This addition is necessary to clarify for RCFE vendors that they must have one or more approved RCFE continuing education courses in order to renew their RCFE continuing education vendorship as is the intent of the course renewal process. Historically, some vendors have not understood this so this amendment should remedy that.

Final Modification:

Per public comment, the word "current" is added to clarify that having one or more "approved" courses does mean having one or more "current approved" courses at the time of the vendorship renewal request.

Sections 87788(h)(2)(C) and (D) Renumbered from Sections 87788(h)(1)(C) and (D)

Specific Purpose:

These sections are renumbered from Sections 87788(h)(1)(C) and (D) and amended to add the term "rosters" and the form number for clarity of the type of information to be maintained.

Factual Basis:

Vendors are required to maintain records of who completed their approved continuing education courses. This amendment is necessary to clarify that this information be maintained in a standardized roster format, as it typically is by course. Without this clarification some vendors may believe they must maintain copies of the individual students' certificates of completion which is an option but not required given the volume of courses and students.

Final Modification:

Per public comment, Section 87788(h)(2)(C) is amended to allow a vendor to use another form for its course roster so long as that roster form includes at least the same information as on the form LIC 9142A.

Section 87788(h)(3)(D) Renumbered from Section 87788(h)(2)(D)

Specific Purpose:

This section is renumbered from Section 87788(h)(2)(D) per the addition of a new section as described above, and amended to clarify the instructors' required knowledge and experience under this criteria and to update the cross-referenced section per prior Departmental updates to the definitions.

Factual Basis:

This amendment is necessary to clarify the existing intent of this criteria that the instructor be a current or very recent administrator and have his or her facility(ies) in substantial compliance with the law and regulations. The amendment changes the timeframe from four years within the last eight years to four years within the last six years to better ensure the person's knowledge of current facility administration requirements and issues and thus the ability to provide correct instruction to other administrators. The amendment also adds that the administrator-instructor have verifiable training in the subject(s) to be taught to help ensure they're not teaching a topic on which, despite their general administrator experience, they have little or no specific knowledge. This all helps ensure the quality of training for administrators.

Final Modification:

Per public comment, the section is amended to remove the unnecessary term “formal.”

Section 87788(h)(6)

Specific Purpose:

The specific purpose of this addition is to place in regulations a requirement that vendors encourage and respond to questions during their training programs.

Factual Basis:

This addition is necessary to address a historical problem of some vendors or their instructors not providing time for questions and/or adequately responding to questions by continuing education course participants. This amendment should remedy that and help ensure the courses better facilitate learning.

Final Modification:

Per public comment, the section is amended to clarify that it’s the course instructor (not necessarily the vendor personally) who is encouraged to elicit and respond to course participant questions.

Section 87788(i)(1)(A)

Specific Purpose:

The specific purpose of this addition is to specify how a webinar or similar type of live online course may be approved pursuant to statute.

Factual Basis:

This addition is necessary to provide clarity to vendors on how the Department may approve webinars and similar type of live online courses. Historically there has been no specific process for reviewing and approving such courses.

Final Modification:

Based on public comment, this section is amended to clarify that “present” means “logged on and interacting throughout” a webinar.

Section 87788(l)

Specific Purpose:

The specific purpose of this addition is to specify the process for notifying vendors of any deficiencies found per the Department's monitoring of the vendor's continuing education program.

Factual Basis:

This addition is necessary to place in regulations and make clear for vendors the process for how the Department will officially notify vendors of any significant deficiencies identified during the monitoring (authorized per H&SC section 1569.616(i)(5)). The amendment also provides for handling minor deficiencies, such that if they are corrected immediately, they won't be included in the notice. The notice will be provided in person or by registered mail to ensure its receipt by the vendor.

Final Modification:

Per public comment, the section is amended to clarify the intent that the deficiency process applies to program inspections as well as investigations (e.g., of complaints).

Section 87789(b)

Specific Purpose:

The specific purpose of this amendment is to clarify that vendor applicants use only the appropriate Department forms for requesting approval of each Continuing Education course and submit them with the correct signature to the correct office.

Factual Basis:

This amendment is necessary to ensure applications are submitted in a consistent format to the correct office so they can be processed in a consistent and efficient manner as part of the training course approval process authorized by H&SC section 1569.616(i)(1). The Department has received numerous handwritten requests that lack the consistency necessary to process the application, and misrouted mail delays receipt and review of the applications. The amendment also updates the language regarding the signatory's certification from a perjury statement to a statement of accuracy and completeness. This is consistent with other such statements now used on Departmental forms.

The amendment also clarifies that a course approval request is to be submitted for each course. While this is currently implied in the sections following, including it here is clearer. The form name and version is also added for clarity and consistency.

Final Modification:

Per public comment, the typographical error is corrected so that a missing “i” is added to “certifying.”

Section 87789(c)(2)

Specific Purpose:

The specific purpose of this addition is to clarify the consequences of late course renewals.

Factual Basis:

This addition is necessary to include in regulations the process for handling late course renewal requests. Specifically, the amendment provides that course renewal requests received by the Department after the course expiration date will be denied and the vendor required to submit the courses for new approvals. Historically, many renewals have been received too late to process before the expiration, leading to a lapse in course approvals and difficulties for vendors and administrators due to cancelled courses. Placing the process in regulations will clarify for vendors the consequences of late renewals and provide an incentive (less paperwork) for timely submittals.

Final Modification:

Per public comment, the typographical error “data” is corrected to “date.”

Section 87793(a)

Specific Purpose/Factual Basis:

This amendment simply adds the word "or" for grammatical clarity.

Final Modification:

Per public comment, the typographical error is corrected so that the section appropriately ends with a colon instead of a period.

Section 87794(b)

Specific Purpose:

The specific purpose of this addition is to specify when the penalties will be due and how they are to be paid.

Factual Basis:

This addition is necessary to clearly advise all vendors of the penalty payment process. Payment by money order only is provided to avoid added costs to the State of trying to process invalid checks. Historically, the Department has received numerous bad checks and has no viable avenue to collect such payments as going to court is usually too costly relative to the payment due.

Final Modification:

Per public comment, the section is amended to allow penalty payment by cashier's check as well as money order as this also is fiscally safe for the State.

b) Identification of Documents Upon Which Department Is Relying

AB 2675 (Chapter 421, Statutes of 2006) regarding on-line learning;
AB 1856 (Chapter 639, Statutes of 2012) regarding cultural competency and sensitivity for the lesbian, gay, bisexual and transgender communities for GH administrators;
AB 663 (Chapter 675, Statutes of 2013) regarding cultural competency and sensitivity for the lesbian, gay, bisexual and transgender communities for ARF and RCFE administrators;
AB 1570 (Chapter 698, Statutes of 2014); and
SB 911 (Chapter 705, Statutes of 2014) regarding increased initial training program topics and hours for RCFE licensees and administrators.

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require reimbursement under Section 17500 et seq. of the Government Code.

d) Statement of Alternatives Considered

The CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be more effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons than the proposed action and equally effective in implementing the statutory policy or other provision of law.

While this regulatory action has been in development for several years, in developing this regulatory action, no reasonable alternatives were brought to the attention of CDSS.

e) Statement of Significant Adverse Economic Impact On Business

The CDSS has determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal largely clarifies existing regulations under which individual administrators and small businesses already operate if they elect to participate in this program's activities. This determination was based on the fact that these regulations have been in effect for over 20 years so the amendments to clarify them, or detail new training content required by statute, have no significant impact on the affected businesses as discussed in the Economic Impact Assessment.

f) Economic Impact Assessment

The adoption of the proposed amendments will not have any significant economic impact because they either clarify existing regulations or effectuate existing statutes.

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The amendments serve to clarify existing regulations and statutory requirements and thus not change the typical numbers of administrators or vendors (currently some 27,000 and 240, respectively) already engaged in this business.

The Department assessed the following few amendments which appeared they might have an economic impact, with the following results:

Limiting the number of administrator exam attempts to three within the 60-day window after completing an ICTP (Sections 84064.2(b)(2), 85064.2(b)(2) and 87406(b)(2)): This amendment is determined to have no cost impact to most administrators and probably no net cost to the few who are taking the exam in excess of three times now as they incur travel costs to attend exams further from their home (as all but three of the fourteen locations where the exams are given offer it only once per month, based on local demand). So an applicant's cost of taking another ICTP if they fail three exam attempts and wish to continue the certification process would be offset by savings in travel costs.

Restricting the acceptable continuing education courses to those approved by the Department (except designated Regional Center courses; Sections 84064.3(b), 85064.3(b) and 87407(b)): This amendment is not anticipated to significantly impact vendor businesses as these businesses already do, and will continue to have, the option to apply to become a Department-approved training vendor for a nominal, statutorily-authorized, processing fee of \$100.

Requiring vendors to record their out-of-State courses (Sections 84090(i)(5)(E), 84091(h)(2)(E), 85090(i)(5)(E), 85091(h)(2)(E), 87785(i)(5)(E), 87788(h)(2)(E)): This is anticipated to have a very limited cost impact as very few (probably less than five percent) of the current 240 approved vendors offer any courses outside of California, and those that do, do so rarely (e.g., offer an annual conference in Nevada). For the few affected vendors, some may already be recording their courses for other uses but if they don't yet have recording equipment, the estimated cost (per a perusal of electronics vendors) is currently \$300 - \$500 for a video recording camera with memory and tripod. Vendors who offer simultaneous courses on a given date (such as at a conference) would require additional cameras but given that they're also typically larger businesses probably already have some such equipment. So assuming that all of the estimated 12 vendors offering occasional out-of-State courses each purchase two cameras at a cost of \$500 would create a one-time total cost of \$12,000. Overall the Department concludes that the impact of this requirement would be a small increase to a very few vendors' costs of doing business and not one that would eliminate such vendors' participation in the program. Furthermore, the purchase of recording equipment would be a less costly alternative than requiring vendors to pay part or all of the cost for Department staff to travel to monitor such out-of-State courses.

Increased initial training hours from 40 to 80 for new RCFE administrators (per AB 1570 and SB 911 of 2014; Section 87785(h)): This industry-sponsored statutory expansion of the RCFE ICTP is estimated to add approximately \$250 to the typical ICTP fee for potential administrators and is not increased by the regulatory action to detail the course content prescribed in statute. The cost to current RCFE ICTP training vendors (approximately 28) to update their RCFE ICTPs to comply with the statutory changes is being absorbed in their current cost of doing business as they must have the updated courses ready to offer on January 1, 2016. To facilitate this, the Department has already posted on its ACS webpage the draft Core of Knowledge chart incorporated in these regulations (Section 87102(k)) developed with a stakeholder advisory committee in 2014 and early 2015.

The clarified and slightly more stringent requirements for course instructors (Sections 84090(i)(7), 84091(h)(3), 85090(i)(7), 85091(h)(3), 87785(i)(7), 87788(h)(3)): While this amendment may require some vendors to review some instructors for Department-approved courses, it is unlikely they would need to replace many, if any, instructors as the changes to the four qualifying options are small and most instructors probably meet more than one of the options already. Similarly the changes should not have a cost impact to vendors on future instructor hires as the basic qualifications and thus instructor salaries would remain the same.

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows:

The updates and clarifications regarding residential facility administrator training and certification processes are anticipated to result in better trained administrators (currently some 27,500) currently managing over 13,600 licensed facilities with a capacity of almost 200,000 residents, and thus improved safety of facility workers and improved health and welfare of the vulnerable residents (youth, disabled adults, and seniors).

The regulatory action is not anticipated to have any specific impacts on the state's environment.

The following documents were relied upon in proposing the regulatory action:

AB 2675 (Chapter 421, Statutes of 2006) regarding on-line learning;

AB 1856 (Chapter 639, Statutes of 2012) regarding cultural competency and sensitivity for the lesbian, gay, bisexual and transgender communities for GH administrators;

AB 663 (Chapter 675, Statutes of 2013) regarding cultural competency and sensitivity for the lesbian, gay, bisexual and transgender communities for ARF and RCFE administrators;

AB 1570 (Chapter 698, Statutes of 2014); and

SB 911 (Chapter 705, Statutes of 2014) regarding increased initial training program topics and hours for RCFE licensees and administrators.

g) Benefits Anticipated from Regulatory Action

The objectives of this rulemaking are to bring the existing regulations into conformity with recent statutory changes as described herein and into consistency across the three program areas (GH, ARF, RCFE), and to make other changes to clarify and strengthen requirements to address problems identified over the history of the program (e.g., cheating on administrator exams, vendor deficiency corrections), thus better protecting the vulnerable populations in these many residential facilities. The anticipated benefits of this rulemaking to the health and welfare of California residents, worker safety, and the state's environment are as follows: The proposal will benefit Californians, including program participants (i.e., facility administrators and training course vendors), by clarifying existing regulations and program processes in accordance with current statutes, thus providing for greater openness and transparency in the government-business interactions of the program. The clarifications should also result in more complete applications received by the Department from administrators and vendors and thus result in more timely processing and conclusions by Department staff [e.g., (non)certifying of administrators, (non)approval of vendors and their training programs]. The action should also result in more timely resolution of problems with training programs (e.g., when identified due to monitoring, changes in courses) and result in more consistent quality of education for facility administrators and thus improved facility worker safety and improved facility resident health and safety, which is the ultimate public purpose of the Administrator Certification Program. There is no specific anticipated benefit to the state's environment.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.

i) Testimony and Response

These regulations were noticed to the public for a minimum of 45-days beginning July 31, 2015, and considered as Item #1 at the public hearing held on September 16, 2015, in Sacramento, California. The public comment period closed at 5:00 p.m. on September 16, 2015.

The following testimony was received orally at the public hearing:

Robert Pye, Crossroads Treatment Center (Crossroads, a current training vendor for GH ICTPs and CEUs).

1. Section 84064

Comment:

Crossroads is concerned about confusing language regarding qualifications of potential GH administrators, specifically:

Section 84064, Administrator Qualifications, requires administrators of homes with six or less capacity to have experience in homes with seven or greater capacity, which doesn't make sense.

Secondly, while there is a provision to grant exceptions to the experience requirements, but these are problematic as they're left up to the analyst, so there is not consistency statewide and there are delays when there's no analyst. Also in the current process, the exemption request has to be submitted after the applicant has already taken the 40-hour ICTP and the exam and administrator certification application, and so that can be \$1,000 to \$2,000 expended (in salary/time off and fees) before getting or being denied an exemption.

Finally, Licensing has become insistent that facilities have an administrator on-site for 20 hours a week and the main qualification for an administrator is a Masters in social work. But most GH administrators don't have such a degree; they have training in therapy.

Response:

The Department appreciates these comments. As they are not directly related to ACS' regulations regarding the administrator certification process, however, ACS cannot make changes in response but is forwarding the comments to the Department's Children and Family Services Division to consider as they work on other rulemaking packages related to Group Homes.

Notwithstanding the public hearing, the following written testimony was received during the 45-day comment period:

Rhonda Mayer, Community Training Connection (CTC, a current training vendor for ARF and RCFE ICTPs, and ARF and GH continuing education).

Megan Geremia, California Assisted Living Association (CALA).

Denise Johnson, Community Residential Care Association of California (CRCAC).

Eric Dowdy, LeadingAge California (LAC, a current training vendor for RCFE continuing education).

Debra Ermac (a certified RCFE administrator) of Debra Ermac Consulting, (DEC, a current training vendor for RCFE continuing education).

Diane Morrow, CEO ProvidersWeb.com (CEO, a prior vendor).

1. General

Comments:

CTC applauds the Department for taking action on many issues which have been in need of clarification and consistency for many years.

CALA applauds the Department for making several improvements to the administrator certification process (including those noted by section below).

Response:

The Department appreciates the comments.

2. Sections 84064.2(b)(2), 85064.2(b)(2) and 87406(b)(2)

Comment:

CALA supports placing a three-time limit on the number of times an individual may take the administrator certification exam.

Response:

The Department appreciates the comment and is maintaining the proposed language.

3. Sections 84064.2(c), 85064.2(c) and 87406(c)

Comment:

CALA supports clarification [here and elsewhere in the regulations] that a criminal background clearance or an exemption meets the requirements of statute (e.g., H&SC 1569.17(g)(1))

Response:

The Department appreciates the comment and is maintaining the proposed language.

4. Sections 84064.3(b)(2)(B) and 85064.3(b)(2)(B)

Comment:

CTC is concerned that these sections give GH and ARF administrators the ability to meet more than 24 of their required 40 CEUs through classes offered by the Department of Developmental Services' (DDS) Regional Centers and that this will adversely impact the business of other training vendors contrary to the Department's fiscal impact statement that there are no significant adverse economic impacts due to the proposed changes.

Response:

The Department appreciates the comment but is maintaining the sections as proposed. The Department does not anticipate any significant adverse economic impacts due to this proposed rulemaking. The provision allowing the Department to accept more than 24 CEUs from Regional Center courses has been in effect since the program regulations were developed in conjunction with the DDS as required by statute (H&SC sections 1522.41(h)(1) and 1562.3(h)(1)) and is not being changed. The Department has found that in practice very rarely do GH and ARF administrators claim all of their CEUs from Regional Center courses. Many do not even use up to the allowed 24 hours of Regional Center courses toward the CEU requirements. So continuance of this provision is not expected to have any new impact on private training vendors' businesses. Additionally, the proposed change to the regulations to eliminate acceptance of courses from organizations not approved as vendors by the Department (see deletions to text following section 84064.3(b)(1) and 85064.3(b)(1)) could actually increase business to other Department-approved training vendors.

Comment

The CTC is also concerned that the Regional Centers have been issued vendor numbers and that this appears to be a conflict of interest as described in H&SC section 1562.3(h)(1)(B).

Response:

The Department appreciates the comment but is maintaining the sections as proposed. The conflict of interest statement cited is moot in regards to DDS Regional Centers as the Legislature has required acceptance of their continuing education courses for ARF administrator training purposes pursuant to H&SC section 1562.3(f)(1) (and per section 1522.41(f)(1) for GH administrators). Additionally, the Department does not actually “vendorize” DDS’s Regional Centers but recently worked with DDS in an effort to streamline the processing of renewals for ARF and GH administrators who submit regional center courses. This collaboration resulted in each Regional Center being issued a vendor number to enable tracking of them in the ACS database and agreeing on a standardized certificate of completion format to be used by all Regional Centers for clarity.

5. Sections 84064.3(c)(1), 85064.3(c)(1) and 87407(c)(1)

Comment:

CALA supports capping the number of CEUs that can be earned in one day to ten hours.

Response:

The Department appreciates the comment and is maintaining the proposed language.

6. Section 84090(l)

Comment:

CRCAC recommends correcting the typographical error in this section where it states “instructor” rather than “instruct or.”

Response:

The Department appreciates the comment and is amending Section 84090(l) to read:

(l) Initial Certification Training Program Vendors shall not instruct or "co-locate" more than one program type (Adult Residential Facility, Group Home, Residential Care Facility for the Elderly) at one time.

Section 87785(l) is similarly being corrected to read:

(k) Initial Certification Training Program Vendors shall not instruct or "co-locate" more than one program type (ARF, RCPE, GH Adult Residential Facility, Group Home, Residential Care Facility for the Elderly) at one time.

7. Sections 84091(d)(1), 85091(d)(1) and 87788(d)(1)

Comment:

CRCAC is concerned that these sections are confusing because it is unclear whether a vendor must have a current course approval (and if so, how current) to renew its CEU vendorship. CRCAC recommends clarifying these regulations.

Response:

The Department appreciates the comment and agrees some clarification may be needed. The intent of these regulations is that only vendors with currently approved courses (i.e., courses that are in effect at the time the vendor renewal is being submitted) can renew their vendorships. As the Department normally approves courses to expire at the same time as the vendorship (except for some one-time courses or conferences) most vendors will have currently approved courses at the time they submit their vendorship renewal request. Historically, however, the Department has found that some vendors never submit a course request, or never finalize a submitted course request, and thus are training vendors in name only which causes confusion for administrators looking for Department-approved courses in their locales. So the Department is amending these continuing education-related regulations (and the parallel ICTP regulations) for clarity as follows.

Section 84090(d)(1) is amended to read:

- (1) A vendor must have a ~~an~~ current approved Group Home Initial Certification Training Program in order to renew its Group Home Initial Certification Training Program vendorship.

Section 84091(d)(1) is amended to read:

- (1) A continuing education vendor must have one or more current approved Group Home continuing education courses in order to renew its Group Home continuing education program vendorship.

Section 85090(d)(1) is amended to read:

- (1) A vendor must have a ~~an~~ current approved Adult Residential Facility Initial Certification Training Program in order to renew its Adult Residential Facility Initial Certification Training Program vendorship.

Section 85091(d)(1) is amended to read:

- (1) A continuing education vendor must have one or more current approved Adult Residential Facility continuing education courses in order to renew its Adult Residential Facility continuing education program vendorship.

Section 87785(d)(1) is amended to read:

- (1) A vendor must have ~~a~~ current approved Residential Care Facilities for the Elderly Initial Certification Training Program in order to renew its Residential Care Facilities for the Elderly Initial Certification Training Program vendorship.

Section 87788(d)(1) is amended to read:

- (1) A continuing education vendor must have one or more current approved Residential Care Facilities for the Elderly continuing education courses in order to renew its Residential Care Facilities for the Elderly continuing education program vendorship.

8. Sections 84091(h)(3)(D), 85091(h)(3)(D) and 87788(h)(3)(D)

Comment:

CRCAC recommends either removing the term “formal” in “formal training” or explaining what constitutes “formal” training.

CALA is concerned that the proposed requirement that an instructor have “verifiable formal training in the subject(s) to be taught” is problematic when capturing an instructor’s qualifications and that knowledge can be obtained through experience as well as formal training. CALA recommends deleting this proposed addition.

Response:

The Department appreciates the comments and agrees that the term “verifiable training” is adequate to clearly state the intended option D, consistent with the other training and experience options A and C for instructor qualification. The Department is not adding subject-matter experience to option D as it’s already available for instructors via option B. The Department amends these regulations as follows.

Sections 84090(i)(7)(D) and 84091(h)(3)(D) are each amended to read:

- (D) Have at least four (4) years of experience in California as an administrator of a group home, within the last ~~eight (8)~~ six (6) years, ~~and~~ with a record of administering the facility(ies) in substantial compliance as defined in Section 80001(s)(~~67~~), and have verifiable ~~formal~~ training in the subject(s) to be taught.

Section 85090(i)(7)(D) is amended to read:

- (D) Have at least four (4) years of experience in California as an administrator of an adult residential facility, within the last ~~eight (8)~~ six (6) years, ~~and~~ with a record of administering the facility(ies) ~~on~~ in substantial compliance, as defined in Section 80001s.(~~6~~)s)(7), and have verifiable ~~formal~~ training in the subject(s) to be taught.

Section 85091(h)(3)(D) is amended to read:

(D) Have at least four (4) years of experience in California as an administrator of an adult residential facility, within the last ~~eight (8)~~ six (6) years, ~~and~~ with a record of administering the facility(ies) in substantial compliance as defined in Section 80001~~s-~~ ~~(6)(s)(7))~~, and have verifiable ~~formal~~ training in the subject(s) to be taught.

Section 87785(i)(7)(D) is amended to read:

(D) Have at least four (4) years¹ of experience in California as an administrator of a residential care facility for the elderly, within the last ~~eight (8)~~ six (6) years, ~~and~~ with a record of administering the facility(ies) in substantial compliance, as defined in Section 87101(s)(~~69~~), and have verifiable ~~formal~~ training in the subject(s) to be taught.

Section 87788(h)(3)(D) is amended to read:

(D) Have at least four (4) years of experience in California as an administrator of a residential care facility for the elderly, within the last ~~eight (8)~~ six (6) years, ~~and~~ with a record of administering the facility(ies) in substantial compliance as defined in Section 87101(s)(~~69~~), and have verifiable ~~formal~~ training in the subject(s) to be taught.

9. Sections 84091(l), 85091(l) and 87788(l)

Comment:

CRCAC is concerned that these sections regarding the procedures for a deficiency cited as a result of investigating a continuing education program are unclear because the term “investigation” is used in the regulations while the term “monitoring” is used in the Statement of Reasons. CRCAC requests clarification as to whether the deficiencies described relate to an investigation due to a complaint or due to the monitoring and inspection of the program as introduced in, for example, section 87788(k).

Response:

The Department appreciates the comment and agrees that some clarification may be needed. The intent is to provide deficiency procedures for any type of investigation or inspection of the vendor’s training program, so the Department is amending these continuing education sections and the parallel ICTP-related sections as follows.

Sections 84090(k), 85090(k) and 87785(k) are amended to read:

(k) If, as a result of an investigation or inspection, the Department determines that a deficiency exists, the Department shall issue a notice of deficiency, unless the deficiency is minor and corrected immediately, and shall provide the Initial Certification Training Program Vendor with the notice of deficiency in person or by registered mail.

Sections 84091(l), 85091(l) and 87788(l) are amended to read:

(l) If, as a result of an investigation or inspection, the Department determines that a deficiency exists, the Department shall issue a notice of deficiency, unless the deficiency is minor and corrected immediately, and shall provide Continuing Education Training Program Vendor with the notice of deficiency in person or by registered mail.

10. Sections 84091.1(c)(2), 85091.1(c)(2) and 87789(c)(2)

Comment:

CRCAC recommends correcting the misspelling of the word “date” in these sections where it currently says “data.”

Response:

The Department appreciates the comment and is amending the sections as follows.

Section 84091.1(c)(2) is amended to read:

(2) Course renewal requests received by the Department after the course expiration date shall be denied, and the vendor required to resubmit the courses for approval pursuant to Section 84091.1(b).

Section 85091.1(c)(2) is amended to read:

(2) Course renewal requests received by the Department after the course expiration date shall be denied, and the vendor required to resubmit the courses for approval pursuant to Section 85091.1(b).

Section 87789(c)(2) is amended to read:

(2) Course renewal requests received by the Department after the course expiration date shall be denied, and the vendor required to resubmit the courses for approval pursuant to Section 87789(b).

11. Sections 84092(b), 85092(b) and 87794(b)

Comment:

CRCAC is concerned that only allowing payment of penalties by money order and not by cashier's checks and/or checks written on a business entity's account is too restrictive. CRCAC recommends allowing cashier's checks as an acceptable means of payment which does not pose additional risk to the State. CRCAC also suggests that business entities be allowed to pay by check written on their business accounts so they can track their expenses for accounting purposes and avoid the burden of obtaining money orders.

Response:

The Department appreciates the comment. Based on accounting concerns, particularly in the case of receiving payment from entities owing penalties, the Department proposed accepting penalty payments only by money order. However, as cashier's checks (not business account checks) also would fulfill the intent to minimize risk, the Department is amending Sections 84092(b), 85092(b) and 87794(b) as follows:

(b) Unless otherwise ordered by the Department, all penalties are due and payable upon receipt of notice of payment, and shall be paid only by money order or cashier's check made payable to the Department.

12. Section 85002(a) – incorporated ARF Core of Knowledge chart

Comment:

In its recommendations on the 80-hour RCFE ICTP (see Comment #25), CEO also suggests that the ARF core of knowledge include the topics of working with Home Health and proper pre-admission assessments.

Response:

The Department appreciates the comments and but is maintaining the ARF Core of Knowledge Guideline chart as proposed. The proposed ARF chart was updated per input from the ACS Advisory Committee and includes recommended subtopics (including pre-admission appraisals) for the ARF ICTPs. While use of home health providers is not specifically listed in the Guideline chart, it is not precluded as the chart's footnote indicates.

13. Section 85064.3(a)(1)

Comment:

CTC supports the requirement for ARF administrators to have at least four hours of instruction in laws, regulations, policies and procedural standards.

Response:

The Department appreciates the comment and is maintaining the proposed language.

14. Sections 85064.3(e) and (f)

Comment:

The CTC is concerned that these regulations are confusing and potentially costly for administrators as taking the required CEUs to renew a late certificate as described in Section 85064.3(e) could be more expensive than taking another ICTP. The CTC recommends allowing administrators to retake an ICTP and start their certification process anew after a certificate is expired less than four years as this does not appear to be prohibited by statute (e.g., H&SC section 1562.3).

Response:

The Department appreciates the comment but is maintaining these regulations as proposed. As CTC notes, after four years, an administrator must start the certification process again (H&SC section 1522.41(f)(6) and 1569.616(f)(6)) and this has not changed. [Otherwise administrators are to renew their certificates every two years per H&SC sections 1522.41(f)(3) and 1569.616(f)(3).] Section 85064.3(f) was simply revised to clarify that such long-lapsed administrators must begin anew the entire certification process (i.e., ICTP, exam, application), not just take the ICTP again as some administrators have misread the existing regulations.

Additionally, as the purpose and content of an ICTP is different than that of continuing education (as the Department has stated in Section 85064.3(c)(3) of these regulations), the Department has found it inappropriate to allow existing administrators to repeatedly take the 35-, 40- or 80-hour ICTP (for ARF, GH or RCFE administrators, respectively) every time their certificate expires rather than take the 40 CEUs required every two years. Section 85064.3(e) clarifies the requirements for those administrators renewing certificates expired less than four years (which in total could amount to 80 CEUs to renew twice during the four years from expiration of an initial certificate).

Furthermore, to allow administrators to re-start the certification process every time their certificate expires would also (to the extent administrators chose this option) significantly increase Department workload as it would require more exams (with proctoring and grading workload) and application processing.

15. Section 87101(c)(7)

Comment:

LAC is concerned that the new definition of “classroom setting” requires “participants must be able to simultaneously interact with each other as well as with the instructor.” LAC recommends striking this part of the definition as such interaction is not feasible in large general continuing education sessions.

Response:

The Department appreciates the comment but is maintaining the definition as proposed. The intent of the statement cited is not that participants must continually interact or, for example, be engaged in small group discussions, but simply that they be together in a live classroom setting and thus have the ability to interact.

16. Section 87102(b) – incorporated form LIC 9140

Comment:

CALA recommends the following clarifications:

- a) Four lines down from “(3) Course Information” change the phrase “Core of Knowledge category” to “Core of Knowledge category(ies)” as a course may cover more than one.
- b) Under “(4) Proposed Course Outline” there are four boxes listing the options for instructor qualifications. How is this supposed to work for courses with multiple instructors?
- c) Also under ““(4) Proposed Course Outline” the fourth box under “Instructor Qualifications” includes language differing from that in the regulation (e.g., 87785(i)(7)(D). Recommend rewording the phrase to “...within the last 6 years and have verifiable training in the subject to be taught.”
- d) On page 2 of the form, questions 6 – 9 are all directed to “you.” Since ACS allows vendors to sign these sections for their instructors, recommend changing the “you” to “the instructor.”
- e) On page 2, the signature blocks all say “...true and correct to the best of my knowledge.” Recommend make it clear that the vendor can sign for the instructors.

Response:

The Department appreciates these comments and is amending form LIC 9140 as follows:

- Changing the phrase “Core of Knowledge category” under section (3) to “Core of Knowledge category(ies)”
- Rewording the fourth box under “Instructor Qualifications” in section (4) to match the amended regulations (see Comment #8) to read “Have at least 4 years’ experience in California as an administrator of a facility in substantial compliance, within the last 6 years, and 2 years’ verifiable training and/or experience in the subject(s) to be taught.
- Changing the language in each box 6 through 9 on page 2 to match that of section 3 of form LIC 9140A and correctly address “the individual” and similarly change the box for the “Printed Name” to “Name of Proposed Instructor.”

The Department is leaving the instructor qualifications boxes as is recognizing that they may reflect the combined qualifications of multiple instructors but will be alert to that when reviewing the required resumes. The Department is also leaving the signature blocks on page 2 as is, as whoever signs must attest that the information is “true and correct” to the best of their knowledge.

17. Section 87102(e) – incorporated form LIC 9142A

Comment:

CRCAC is concerned that mandatory use of this form may duplicate other systems vendors have, which may capture more information than the form, and thus be redundant for recordkeeping purposes.

CALA recommends the following clarifications:

- a) As noted in comments regarding Section 87788(h)(2)(C), CALA recommends making this form optional as it does not account for new technologies and devices to track conference session attendance and provide vendors flexibility to use other roster formats.
- b) Remove the now obsolete instruction to submit the rosters “within seven (7) days” to ACS as the regulations require rosters to be maintained in vendor records (e.g., 87788(h)(2)(C)) and submitted upon request (e.g., 87785(i)(4), 87788(k)(1)).

Response:

The Department appreciates the comments and is amending the regulation as described in Comment #28. The Department is also amending the instructions of form 9142A to read:

“Instructions: ~~Within seven (7) days of completing an ICTP or CEU course, or u~~Upon ACS request, vendors must submit a copy of the complete roster of participants to CDSS, ACS ...”

18. Section 87406(i)

Comment:

LAC urges clarification of the term “good cause” as it relates to extensions for administrator certification. LAC suggests adding language such as “Good cause may include death of an immediate family member, fulfilling military service or other civic duty, or other unavoidable event as determined by the Department.”

Response:

The Department appreciates the comment and agrees that some clarification may be helpful so is amending Sections 84064.2(i)(1), 85064.2(i)(1) and 87406(i)(1) to each read:

- (1) Good cause may include death of an immediate family member, required fulfillment of military service or other civic duty, or another unavoidable and verifiable event as determined by the Department. Failure of the exam shall not constitute good cause for an extension.

19. Sections 87407(c)(1) and 87785(h)(1)(H)

Comment:

DEC is concerned that these two statements regarding ten hours of instruction will encourage vendors to develop ten-hour training sessions, which can deter learning given humans’ short attention span and learning capacities. DEC recommends allowing not more than five hours of coursework completed in one day.

Response:

The Department appreciates the comment but is maintaining the sections as proposed. (See related comment #5.)

The Department agrees with the concern regarding humans’ limits on attention spans and capacity for retaining new information, and this is the reason for the ten-hour limit being added to Section 87407(c)(1) [and its parallel Sections 84064.3(c)(1) and 85064.3(c)(1)]. Historically, the Department has had numerous administrators claiming online (or a mix of online and in class) CEUs of well over ten hours total in a single day but had no clear authority to reject such units when renewing certificates. The ten-hour limit, based on the fact that many ICTPs and some CEU courses are currently designed in sections adding up to ten-hours per day, is intended to curb this problem and better ensure administrators actually learn and retain the course information obtained. Administrators are not required to take this many hours of instruction per day; there are many vendors with a variety of course lengths.

As for Section 87785(h)(1)(H), it actually does not propose ten hours of instruction in one day but simply states the required hours for that particular component of the 80-hour RCFE ICTP. Instructors of those ICTPs may or may not cover all of that topic in a single day depending on how their course is structured.

20. Section 87407(d)(2)

Comment:

CALA, CRCAC and DEC recommend correcting the typographical error in this section, where it should state “20” instead of “2” following the word “twenty.”

Response:

The Department appreciates these comments and agrees. Section 87407(d)(2) is amended to read:

- (2) Evidence of completion of forty (40) continuing education hours as specified in Section 87407(a), or, if applicable, twenty (20) continuing education hours as specified in Section 87407(g).

21. Section 87407(e)(2)

Comment:

CALA recommends correcting the typographical error in this section, where it should reference Section 87407(g) instead of 87406(g).

Response:

The Department appreciates this comment and agrees. Section 87407(e)(2) is amended to read:

- (2) Evidence of completion of the required continuing education hours as specified in Section 87407(a), or 87407(g), if applicable. The total number of hours required for recertification shall be determined by computing the number of continuing education hours the certificate holder would have been required to complete if they had remained certified. The date of computation shall be the date the ~~written request for recertification~~ application for renewal is received by the Department’s Administrator Certification Section.

22. Section 87785(b)(3)

Comment:

DEC recommends considering replacing the word “topical” with “topic” to be more grammatically correct.

Response:

The Department appreciates the comment but is maintaining the language as proposed. The term “topical” here describes the type of outline to be provided so is grammatically acceptable.

23. Section 87785(b)(6)

Comment:

CALA recommends correcting the typographical error in this section, where the “4” in “87785(i)(4~~5~~)” should be clearly stricken out.

Response:

The Department appreciates this comment and that the existing strike-out over the “4” in question is hard to read but will be made.

24. Sections 87785(b)(8) and 87789(b)(5)

Comment:

DEC recommends amending these statements to clearly reflect any state of the U.S. rather than just California.

Response:

The Department appreciates the comment but is maintaining the language as proposed. The language here (and in parallel sections) is only meant to cover California, as this is the area for which the Department has jurisdiction.

25. Section 87785(h)

Comment:

CALA appreciates the designation of a thoughtful, balanced number of hours to the RCFE core of knowledge subjects for the new 80-hour administrator certification program.

CEO recommends that the following areas need to be addressed in the new RCFE ICTP:

- a) Working with home health providers (e.g., to monitor and care for resident health needs)
- b) Proper pre-admission requirements (e.g., to avoid accepting residents beyond the facility's level of care)
- c) Fall safety and prevention – dignity of risk information
- d) Emergency preparedness and extra emergency plans for dementia and bedridden residents
- e) Activity outing safety
- f) Labor laws and paying employees properly (e.g., covering Industrial Welfare Commission's Public Housekeeping Laws)
- g) RCFE dementia care (including differences in RCFEs that provide "special dementia care")

Response:

The Department appreciates the comments and is maintaining the proposed language in this section and in the related RCFE Core of Knowledge chart. The list of required RCFE ICTP components in Section 87785(h) is derived directly from statute (H&SC section 1569.616(c)(1)). The hours for each of these component topics, as well as the updated, detailed list of subtopics in the RCFE Core of Knowledge Training Standard chart, were developed in conjunction with the ACS Advisory Committee of current vendors and administrators, after the changes in law were passed in 2014. Dementia is one of the statutorily-required topics and is further detailed in the chart. The chart also includes required subtopics on interacting with home health, admission appraisals, disaster and related safety planning, labor laws and wages. While fall safety and prevention is not a required subtopic, it is already a commonly available continuing education course for RCFE administrators.

26. Sections 87785(i)(7) and (8)

Comment:

CEO sees a problem with allowing teachers with no experience running a community care facility to teach the 80-hour RCFE ICTP. CEO states that we need people with actual experience to teach in order to have care home administrators properly trained.

Response:

The Department appreciates the comment but is maintaining the sections as proposed. Section 87785(i)(7) [and the other parallel sections of these regulations] is being amended in this rulemaking to address concerns about instructor qualifications by more clearly and specifically stating requirements that instructors have education and experience relevant to the subject(s) to be taught.

Furthermore, specific to the new 80-hour length of RCFE ICTPs, Section 87785(i)(8) is being amended to require that at least 20 hours of that ICTP instruction be provided by an instructor with four years' experience as an administrator of an RCFE in substantial compliance within the last six years, and have training and/or experience in the subject(s) to be taught. (See related Comment #8.) The Department expects these changes will address the concern to have better qualified instructors for the administrator training programs.

27. Section 87788(h)(1)(A)

Comment:

CALA is unclear where the requirement for a vendor signature on the course certificate of completion comes from and why it is needed.

Response:

The Department appreciates the comment but is maintaining the proposed language. The Department is authorized by statute (e.g., H&SC section 1569.616(h)(1)) to establish by regulation the program content and procedures. This regulation thus establishes the standard content of training course certificates, including signature by the vendor (or its authorized representative) which helps prevent fraud in the administrator certification and training process and ultimately helps ensure greater safety for the vulnerable residents of the residential facilities.

28. Section 87788(h)(2)(C)

Comment:

CALA requests that the course roster form LIC 9142A be made optional to allow vendors to use their own formats for tracking attendance at their courses and conferences. CALA states that this form's format is not the standard for large, professional conferences, and that there are also various technologies available to track session attendance. Requiring use of this specific form would unnecessarily preclude course providers from using these evolving technologies.

Response:

The Department appreciates this comment and agrees that vendors might have other acceptable formats for tracking course attendance. The Department is amending this and the parallel GH and ARF regulations as follows.

Sections 84090(i)(4) is amended to read:

~~(34) Submit to the Department within seven (7) days of determination the names of individuals who have completed forty (40) hours of classroom instruction upon request a Roster of Participants (form LIC 9142A or other document which includes the same information) who completed the program.~~

Section 85090(i)(4) is amended to read:

~~(34) Submit to the Department within seven (7) days of determination the names of individuals who have completed thirty five (35) hours of classroom instruction upon request a Roster of Participants (form LIC 9142A or other document which includes the same information) who completed the program.~~

Section 87785(i)(4) is amended to read:

~~(34) Within seven (7) days of determination that an individual has completed 40 hours of class instruction, submit the participant's name to the Department. Submit to the Department upon request a Roster of Participants (LIC 9142A or other document which includes the same information) who completed the program.~~

Sections 84090(i)(5)(C), 85090(i)(5)(C) and 87785(i)(5)(C) are each amended to read:

~~(C) Names of registered~~ A Roster of Participants (LIC 9142A or other document which includes the same information) and documentation of who completed ~~ion of the~~ program.

Sections 84091(h)(2)(C), 85091(h)(2)(C) and 87788(h)(2)(C) are amended to read:

~~(C) Names of registered~~ Rosters of Participants (LIC 9142A or other document which includes the same information) and documentation of who completed ~~ion of the~~ courses.

29. Section 87788(h)(6)

Comment:

LAC finds the phrasing of this section to be awkward as the vendor is not always present at the class. LAC suggests rewording the regulation to read: “The vendor should encourage approved instructors to elicit and respond to participants’ questions when appropriate.”

Response:

The Department appreciates the comment and understands how the phrasing might be confusing in this and the other sections on this subject. The intent of the regulation is to have vendors ensure that they and their other instructors, as applicable, encourage and respond appropriately to questions from their class participants. Historically the Department has found that some course instructors provided no opportunities for questions and others responded negatively when participants had questions, thus discouraging active learning.

Sections 84090(i)(9), 84091(h)(6), 85090(i)(9), 85091(h)(6), 87785(i)(10) and 87788(h)(6) are each amended to read:

~~During the course, e~~Encourage course instructors to elicit and respond appropriately to participants' questions.

30. Section 87788(i)(1)(A)

Comment:

CALA is concerned that the proposed Webinar requirement that “it can be verified that the certificate holder was present for the entire length of the Webinar” conflicts with H&SC section 1569.616(i)(2) that requires online courses have an interactive portion. CALA recommends changing the word “present” to “logged in” for clarity and as the most currently feasible means of verifying participants’ presence in a Webinar.

Response:

The Department appreciates the comment. The regulation noted is intended to address both the need for a Webinar to have participant interactivity and the need for vendors to be able to document a participant was present for the full course. The Department agrees that using the term “logged in” instead of “present” may be clearer for describing how to document a participant’s general presence. However, this does not negate the need of vendors to ensure participants interact throughout the Webinar, such as by responding to periodic questions, and thus actually participate in the course rather than log on and walk away.

Section 84091(i)(1)(A) is amended to read:

(A) A Webinar or similar type of live broadcast of a training course may be approved by the Department for online continuing education hours pursuant to Health and Safety Code section 1522.41(h)(7) where the technology permits interactive participation of the certificate holder and such participation is verifiable, and where it can be verified that the certificate holder was ~~present for~~ logged on and interacting throughout the entire length of the Webinar.

Section 85091(i)(1)(A) is amended to read:

(A) A Webinar or similar type of live broadcast of a training course may be approved by the Department for online continuing education hours pursuant to Health and Safety Code section 1562.3(h)(7) where the technology permits interactive participation of the certificate holder and such participation is verifiable, and where it can be verified that the certificate holder was ~~present for~~ logged on and interacting throughout the entire length of the Webinar .

Section 87788(i)(1)(A) is amended to read:

(A) A Webinar or similar type of live broadcast of a training course may be approved by the Department for online continuing education hours pursuant to Health and Safety Code section 1569.616(i)(2)(B) where the technology permits interactive participation of the certificate holder and such participation is verifiable, and where it can be verified that the certificate holder was ~~present for~~ logged on and interacting throughout the entire length of the Webinar.

31. Section 87789(b)

Comment:

CRCAC recommends correcting the misspelling of “certifying” in this section; the second “i” is missing.

Response:

The Department appreciates the comment and is amending Section 87789(b) as follows:

(b) Any vendor applicant seeking approval of a Continuing Education Training Program course shall submit a written request to the Department using the Request for Course Approval forms LIC 9140 and LIC 9141, or a replica for each course. The request shall be signed ~~under penalty of perjury~~ by an authorized representative of the vendor certifying that the information submitted is true and correct, and contain the following for each course:

32. Section 87793(a)

Comment:

CRCAC recommends correcting the punctuation at the end of this paragraph from a period to a colon.

Response:

The Department appreciates the comment and is amending Section 87793(a) as follows:

- (a) The Department may revoke a Continuing Education Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Sections 87788, Continuing Education Training Program Vendor Requirements, and 87789, Continuing Education Training Program Course Approval Requirements, or.